2012 Summary of Annual Report
The Ombudsman Hong Kong

We Discover and Discern

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The Ombudsman Hong Kong
June 2012

Performance and Results

Enquiries and Complaints Processing

In 2011/12, we received 5,029 complaints, 5.8% lower when compared to last year's 5,339. If secondary cases in topical complaints are discounted, the figure stood at 4,849, the highest since 2008/09, when we started to capture the number of topical complaint cases received.

Fig. 1

Enquiries and Complaints Received

Year	Enquiries	Complaints	
		Total	Excluding topical complaints*
2007/08	12,169	4,987	N.A.
2008/09	14,005	5,386	4,533
2009/10	13,789	4,803	4,410
2010/11	12,227	5,339	4,712
2011/12	12,545	5,029	4,849

* Statistics on topical complaints started to be kept from 2008/09 onwards.

Topical Complaints

There were significantly fewer topical complaints (180 secondary cases) this year, comprising only about 3.6% of all complaints received. The construction of a high-rise office building attracted the largest number of complaints (74 secondary cases). Others were related to the hiring of illegal immigrants, unreasonable procedures in hiring Government sports facilities, the Government fiscal measure of giving $6,000 to Hong Kong residents, a department's advertisement which contained simplified Chinese characters and the environmental hygiene problems at a locality.

Mode of Lodging Complaints

Similar to last year, 77.7% of the complaints received were in writing and email remained the most common channel used. Details are shown in **Fig. 2**.

Fig. 2

Mode of Lodging Complaints

Mode	2007/08	2008/09	2009/10	2010/11	2011/12
In person	251	370	413	634	573
In writing –					
by complaint form	486	1,300	863	544	518
by letter through post	1,829	936	870	882	947
by fax	753	890	764	766	657
by email	1,380	1,515	1,362	1,954	1,783
By telephone	288	375	531	559	551
TOTAL	**4,987**	**5,386**	**4,803**	**5,339**	**5,029**

Outcome of Investigations and Inquiries

We concluded 163 complaints by full investigation, with 62 (38.0%) substantiated, partially substantiated or substantiated other than alleged. The outcome of our full investigations is summarised in **Fig. 3**.

Fig. 3

Outcome of Complaints Concluded by Full Investigation		
Classification	**No. of Complaints**	**Percentage**
Substantiated	33	20.2%
Partially substantiated	25	15.3%
Substantiated other than alleged	4	2.5%
Unsubstantiated	100	61.4%
Inconclusive	1	0.6%
Total	**163**	**100.0%**

Of the 2,492 inquiry cases concluded, inadequacies or deficiencies were found in 685 (27.5%). We would suggest improvement measures whenever such were called for.

Direct Investigation

We completed five direct investigations this year, covering subjects of conservation of country parks, water billing system, special education services for students with emotional and behavioural difficulties, monitoring of private residential care homes for the elderly and granting of short term tenancies.

We also completed 23 direct investigation assessments. The more significant ones covered subjects such as water mains maintenance, traffic facilities and student service vehicles, unauthorised change of land use, applications for public housing, stray dogs and cats, textbook pricing, transfer of hawker licences and private columbaria.

Recommendations

On completion of 163 full investigations we made 134 recommendations. We also made 35 recommendations after five direct investigations. Among this total of 169 recommendations, 151 (89.3%) of them have been accepted by the organisations for implementation and 18 (10.7%) were still under consideration as at 31 March 2012.

Our Performance

This year, we were able to meet our pledges fully in respect of answering enquiries by telephone and in person and in arranging talks. For enquiries in writing, we answered 78% of them in five working days and 22% in six to ten working days.

Our performance in complaint handling is summarised in **Fig. 4**. We acknowledged and completed initial assessment of almost all complaints received within five working days. We concluded within three months 79.3% of the cases requiring further processing, compared with 74.5% last year.

Fig. 4

(a) Response Time for Acknowledgement/ Initial Assessment			
Year	**Response Time**		
	Within 5 working days (target: >80%)	**Within 6-10 working days (target: <20%)**	**More than 10 working days**
2011/12	99.4%	0.5%	0.1%

(b) Processing Time for Cases Outside Jurisdiction or Under Restriction			
Year	**Response Time**		
	Within 10 working days (target: >70%)	**Within 11-15 working days (target: <30%)**	**More than 15 working days**
2011/12	89.2%	9.3%	1.5%

(c) Processing Time for Other Cases Concluded			
Year	**Response Time**		
	Less than 3 months (target: >60%)	**Within 3-6 months (target: <40%)**	**More than 6 months**
2011/12	79.3%	19.8%	0.9%

Reward and Challenge

Enhancing Quality Administration

We make recommendations to the organisations concerned with an aim to improve the quality of administration, apart from suggesting remedy to the complainant where appropriate. During the year under report, two major categories of measures introduced by organisations on our recommendations for better administration were enhanced guidelines for staff and clearer and more timely information to the public. Others included better arrangements for inter-departmental coordination; measures for better public enquiry/complaint handling; better client services and more effective regulation or control; clearer and more reasonable rules; and training for staff.

Mediating Disputes

This year 22 cases were successfully concluded by mediation. They concerned matters such as car parking facilities for people with disabilities, repair of water pipes, recovery of works costs and use of public leisure facilities.

Transparent Government and Access to Information

We received 35 complaints relating to the Code on Access to Information, a smaller figure than last year but still high when compared with three or four years ago. The effectiveness of the Code can be hampered if Government does not keep good records of its actions and decisions. We saw complaint cases where the department either kept no record for its policy change or destroyed documents that were supporting evidence for the department to recover money owed to Government.

Systemic Issues Revealed

Compartmental Mentality and Lack of Determination

Compartmental mentality is a persistent problem typically reflected in street management issues. In cases where unauthorised structures were involved, often the relevant departments were more concerned about whether they themselves should be the action department than how the problem could best be resolved. We suggest that all departments involved should promptly put their heads together and work out a reasonable action plan, with joint action if necessary, to tackle the problem first.

Determination to tackle a problem is also a critical factor affecting the effectiveness of governance. An example is the perennial problem of shop-front extension, which involves conflicting vested interests. Its solution may require regularisation at certain locations after adequate local consultation and strict enforcement action at black spots. This will require strong Government determination.

Accountability

Responsibility must not be contracted out together with the service. The Housing Department, which we had criticised last year for often simply referring complaints to outsourced management companies for handling without monitoring how the complaints were handled, improved this year. A bad example, however, was found in the Agriculture, Fisheries and Conservation Department, which had subsidised an animal welfare organisation's "catch, neuter and return" programme for years without monitoring or evaluating the programme's effectiveness.

Challenges from Parties

Re-assessment of Cases

Complainants disagreeing with our decision may request to have their cases re-assessed. During the year we received 248 requests for re-assessment, with 95 subsequently re-opened for inquiry.

Review of Cases

For cases that we have concluded after examination of the issues under complaint, complainants dissatisfied with our findings or conclusions may seek a review. This year we received 61 requests for review. We declined 22 of the requests and conducted 39 reviews. Decision was varied in four cases after review and upheld for the remaining 35.

Complainants' Responsibilities

Cooperation from the complainants in providing us with clear and necessary information can no doubt help expedite our inquiries. To let complainants understand better what they can do to help our inquiry work and hence resolution of their complaints, we have drawn up a Complainants Charter.

Judicial Review and Litigation

A complainant not satisfied with our decision may, apart from requesting a review by The Ombudsman, seek a judicial review by the court. There was one application for judicial review against my decisions this year. The application was refused by the Court of First Instance as there was no reasonable ground for the application.

In October 2011, a complainant lodged a claim with the Small Claims Tribunal against our Office as a co-defendant in connection with our decision on the claimant's complaint against a Government department. The next hearing was scheduled for April 2012.

Office Administration

Staffing

Our investigation officers belong to the Complaints Officer grade which forms the backbone of our Office. To promote the long-term development of the grade, we started recruiting more graduates with no or little working experience at the entry rank of Assistant Complaints Officer this year. We also engaged in outreach activities to enhance understanding of our mission and work of our investigation officers, including careers fair and recruitment talk organised by two local universities and the Education & Careers Expo.

Training

We organised two rounds of induction programmes for our new recruits, and provided sponsorship to two officers who were successful in obtaining accreditation as mediators. In addition, we invited the Department of Justice, the Office of the Privacy Commissioner for Personal Data, and the Labour Department to deliver seminars on issues on human rights, data privacy and occupational health and safety respectively. We also sponsored six staff members to receive first aid training provided by the Auxiliary Medical Service.

Complainants Charter

Apart from drawing up a Complainants Charter setting out our commitments as well as complainants' responsibilities, we issued guidelines to staff on how to handle complainants who behave in ways which would disrupt the operation of the Office. In addition, we upgraded the CCTV system, to cover the reception and public areas in order to enhance office security.

Publicity and External Relations

We rolled out a publicity campaign in October 2011. Our advertisement covered TV and public transports by means of video commercials, digital display panels and seatback stickers.

A brand new corporate video was also developed to elaborate the history, role and investigative powers of The Ombudsman, and help viewers to gain a better understanding of the work of this Office.

To extend our reach to the community, besides organising outreach talks, seminars and press conferences, we developed two online games and set up a fan page on a popular social networking platform to inform the public on our functions and jurisdictions.

The Ombudsman's Awards are presented annually to honour the efforts of public organisations and their officers for exemplary performance in complaint handling and serving the public. This year's presentation ceremony was held on 17 November 2011, during which The Ombudsman presented the Awards to the Housing Department (Grand Award), the Education Bureau, Labour Department and 32 officers.

This year, The Ombudsman attended the International Ombudsman Institute ("IOI") Board Meeting in Livingstone, Zambia and the Asian Ombudsman Association's Conference and Board Meeting in Tokyo and Shizuoka, Japan. These occasions are important for gleaning good practices from different ombudsman's systems and showcasing ours.

This Office has maintained an exchange programme with the China Supervision Institute since 1996. In September 2011, The Ombudsman led a delegation of seven members to Beijing and Chongqing. The visit enhanced mutual understandings and cooperation with our mainland counterparts.

Looking Ahead

We will continue to gauge public awareness, perception and expectation on our services. Based on the feedback received, we will refine our operational procedures and adjust our publicity strategies to meet the changing needs of the community. We value the views of the public and we continue to take reference from our stakeholders and counterparts worldwide for promoting a fair and efficient public administration.

Fig. 5 Caseload

	Reporting year[1]				
	07/08	08/09	09/10	10/11	11/12
Enquiries	**12,169**	**14,005**	**13,789**	**12,227**	**12,545**
Complaints					
(a) For processing	**5,929**	**6,671**	**5,869**	**6,467**	**6,085**
- Received	4,987	5,386 [853]	4,803 [393]	5,339 [627]	5,029 [180]
- Brought forward[2]	942	1,285	1,066	1,128	1,056
(b) Processed	**4,644**	**5,701 [1,225]**	**4,775 [402]**	**5,437 [611]**	**5,237 [210]**
Non-pursuable[3]	**2,667**	**3,017 [814]**	**2,560 [100]**	**2,381 [11]**	**2,560 [127]**
Pursued and concluded	**1,977**	**2,684 [411]**	**2,215 [302]**	**3,056 [600]**	**2,677 [83]**
- By inquiry[4]	1,938	2,437 [224]	2,086 [302]	2,894 [524]	2,492 [6]
- By full investigation[5]	38	247 [187]	126	155 [76]	163 [61]
- By mediation[6]	1	0	3	7	22 [16]
(c) Percentage processed = (b) / (a)	**78.3%**	**85.5%**	**81.4%**	**84.1%**	**86.1%**
(d) Carried forward = (a) – (b)	**1,285**	**970**	**1,094**	**1,030**	**848**
Direct investigations completed	**4**	**6**	**7**	**6**	**5**

Note 1. From 1 April to 31 March of the next year.
Note 2. Including 96, 34 and 26 re-opened cases in 2009/10, 2010/11 and 2011/12 respectively.
Note 3. Outside our jurisdiction or restricted by The Ombudsman Ordinance; withdrawn by complainant, discontinued or not undertaken by the Office, e.g. *subjudice* or lack of *prima facie* evidence
Note 4. Pursued under section 11A of the Ordinance, for general cases.
Note 5. Pursued under section 12 of the Ordinance, for complex cases possibly involving serious maladministration, systemic flaws, etc.
Note 6. Pursued under section 11B of the Ordinance, for cases involving no, or only minor, maladministration.
[ ] Number of topical cases (not available before 2008/09).